



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

By Electronic Mail and First Class Mail

cbell@bmhlaw.com

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Charles H. Bell, Jr., Esq.
Bell, McAndrews & Hiltachk, LLP
455 Capitol Mall, Suite 600
Sacramento, CA 95814

RE: MUR 6943
Republican Party of Orange County

Dear Mr. Bell:

On May 13, 2015, the Federal Election Commission (the "Commission") notified your clients, the Republican Party of Orange County and Jeffrey Lalloway in his official capacity as treasurer (the "Committee"), of AR 15-04 indicating that, in the normal course of carrying out its supervisory responsibilities, the Commission became aware of information suggesting the Committee may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On June 16, 2015, the Commission opened MUR 6943 and found reason to believe that the Committee violated 52 U.S.C. §§ 30104(b) and 30125(b), provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that your clients have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) (formerly 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A)), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to the Committee as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law.

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We look forward to your response.

On behalf of the Commission,



Ann M. Ravel
Chair

Enclosures
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Republican Party of Orange County and
Jeffrey Lalloway in his official capacity
as treasurer¹

MUR 6943

I. INTRODUCTION

This matter was generated by a Commission audit of the Republican Party of Orange County ("RPOC") covering the period of January 1, 2009 through December 31, 2010. The Commission approved the Final Audit Report on April 24, 2015, and the Audit Division referred the following two findings to the Office of the General Counsel ("OGC") for possible enforcement action: (1) RPOC failed to disclose debts and obligations of \$56,089,² and (2) RPOC improperly spent \$73,465 on voter registration activities using Levin funds transferred from the California Republican Party ("CRP").³ OGC notified RPOC of the Referral, and RPOC filed a response but did not present additional substantive arguments beyond those previously presented and considered by the Commission during the audit process.⁴ Based on the discussion below and the facts, analysis, and findings set forth in the Final Audit Report, which is herein incorporated by reference, the Commission makes the following reason to believe findings:

¹ On May 13, 2015, the Republican Party of Orange County filed an amended Statement of Organization designating Jeffrey Lalloway as its treasurer. Mark W. Bucher was the treasurer during the activity in this matter.

² See Final Audit Report at 9-10. The Final Audit Report and Audit Referral incorrectly stated that the amount of this violation was \$60,296; the correct amount of the unreported debts and obligations during the audit period is \$56,089.

³ *Id.* at 13-16.

⁴ With regard to the finding that RPOC improperly utilized funds that had been transferred into its Levin account, RPOC reiterates that it had accepted the Levin funds at issue from the CRP with the understanding from CRP that the Commission had previously advised CRP that it was permitted to transfer Levin funds to RPOC. RPOC Resp. at 1 (May 28, 2015). RPOC further explains that it found the rule allowing the transfer but prohibiting the use of the funds unusual, but acted in good faith to follow the direction of the Audit staff by disclosing a debt that reflected the amount of the expended Levin funds at issue, even as it contested the issue during the audit process. *Id.* at 1-2. RPOC's Response does not address the audit finding that RPOC failed to disclose debts and obligations.

- RPOC violated 52 U.S.C. § 30104(b) by failing to disclose debts and obligations of \$56,089 in its reports, and
- RPOC violated 52 U.S.C. § 30125(b) by improperly spending \$73,465 on federal voter registration activities using Levin funds transferred from the California Republican Party.⁵

II. FACTUAL AND LEGAL ANALYSIS

A. Failure to Disclose Debts and Obligations

The Act and Commission regulations require political committees to disclose the amount and nature of outstanding debts and obligations until those debts are extinguished.⁶ A political committee must file separate schedules for debts owed by and to the committee with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished.⁷ A debt or obligation of \$500 or less must be reported as of the time that payment is made or within sixty days of the date on which the political committee incurs the debt, whichever comes first, and a debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred.⁸

RPOC failed to report debts totaling \$56,089 during the 2010 election cycle.⁹ In November 2013, RPOC amended its reports to include these debts and obligations.¹⁰ Based on this information, the Commission finds reason to believe that RPOC violated 52 U.S.C. § 30104(b) by failing to disclose debts and obligations of \$56,089 in its reports.

⁵ See Final Audit Report at 9-16.

⁶ 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

⁷ See 11 C.F.R. § 104.11(a).

⁸ 11 C.F.R. § 104.11(b).

⁹ See Final Audit Report at 10.

¹⁰ *Id.*

B. Improper Use of Levin Funds

The Act generally prohibits State, local, and district committees of political parties from using non-federal funds to pay for Federal election activity.¹¹ The Act, however, permits a State, local, and district committee of a political party to pay for certain Federal election activities, such as voter registration and “get out the vote” activities that do not mention a Federal candidate, with an allocation of both Federal and non-federal funds, which are subject to certain restrictions.¹² These non-federal funds are referred to as Levin funds.¹³

The Act and Commission regulations require Levin funds to be raised solely by the State, district, or local political committee that expends or disburses the funds.¹⁴ Therefore, a State, district, or local political committee must not use as Levin funds any funds transferred or otherwise provided to the committee by any State, district, or local political committee or the national committee of any political party.¹⁵

During the 2010 election cycle, RPOC made 23 transfers, totaling \$73,465, from its Levin account to its Federal accounts in order to reimburse the Federal accounts for voter

¹¹ 52 U.S.C. § 30125(b)(1).

¹² 52 U.S.C. § 30125(b)(2). For instance, State, local, and district political committees may pay for the following types of Federal election activity with non-federal “Levin” funds: voter registration activity conducted within 120 days prior to a regularly scheduled Federal election, and voter identification, “get out the vote” activity, and generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot. *Id.*

¹³ See 11 C.F.R. § 300.30(b).

¹⁴ 52 U.S.C. § 30125(b)(2)(B)(iv); 11 C.F.R. § 300.31(a). Additionally, Levin funds must comply with State law. See 52 U.S.C. § 30125(b)(2)(B)(iii); 11 C.F.R. §§ 300.31(a)-(d), 300.34. The Act limits individual contributions to Levin funds to \$10,000 per calendar year, unless State law prescribes a lesser amount. 52 U.S.C. § 30125(b)(2)(B)(iii); 11 C.F.R. § 300.31(d).

¹⁵ See 52 U.S.C. § 30125(b)(2)(B)(iv); 11 C.F.R. § 300.34(b). In addition, a State, district, or local political committee must not use any Federal funds transferred to it from or otherwise accepted by it from any other State, district, or local committee as the Federal component of an expenditure or disbursement for qualifying Federal election activity. See 11 C.F.R. § 300.34(a).

registration expenses.¹⁶ The source of funds used to make these transfers was a \$74,132 transfer to RPOC's Levin account from the Levin account of the California Republican Party.¹⁷ Therefore, the Commission finds reason to believe that RPOC violated 52 U.S.C. § 30125(b) by improperly spending \$73,465 on federal voter registration activities using Levin funds transferred from the California Republican Party.

¹⁶ See Final Audit Report at 13. RPOC reported these transfers on Schedule H5 (Transfers of Levin Funds Received for Allocated Federal Election Activity). *Id.*

¹⁷ *Id.*

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